

Atty. Docket No.. 74120-301403
Serial No.. 09/870.228

REMARKS

The Applicant respectfully requests reconsideration of this application as amended. Claims 1-12 have been cancelled without prejudice. Claims 13 and 15 have been amended. New claims 16- 27 have been added. Therefore, claims 13-27 are present for examination.

DRAWINGS

In the Office action, the Examiner required new corrected drawings to be submitted. Attached hereto as Appendix A, please find a copy of the proposed new replacement drawings, corrected in accordance with 37 C.F.R. § 1.84, for your reference; original replacement drawings have been submitted to the PGPUB DRAWINGS mail stop on a date even herewith. The Examiner's approval is respectfully requested for the proposed replacement drawings.

CLAIM REJECTIONS - 35 U.S.C. § 112

In the Office action, the Examiner rejected claim 5 under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. Claim 5 has been cancelled; therefore, Applicant respectfully requests the Examiner to withdraw the claim rejections under 35 U.S.C. § 112, second paragraph.

CLAIM REJECTIONS - 35 U.S.C. § 102

In the Office action, the Examiner rejected claim 14 under 35 U.S.C. § 102(e) as being anticipated by Gross et al. (U.S. 6,553,515) (hereinafter "Gross"). Applicant respectfully asserts that Gross does not anticipate claim 14.

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Claim 14 provides, *inter alia*, "A method of identifying network failures in a Voice over IP (VoIP) network comprising: generating alarms from VoIP call usage records." (emphasis added). Gross does not disclose, teach, or suggest "generating alarms from VoIP call usage records."

On page 4 of the Office action, the Examiner points to Gross (col. 5, lines 68 – col. 6, line 19; col. 8, lines 1-20; col. 11, lines 39-51) as teaching that, "Reports are generated from past call records to indicate any problems or quality issues in the VoIP network." Although Gross does appear to disclose providing "reports" (col. 7, line 50 – col. 8, line 12) and generating "alarms" (col. 7, lines 14-20), and although Gross also appears to disclose the creation of Diagnostic Messages, Gross does not teach, disclose, or suggest generating alarms from the Diagnostic Messages. Instead, Gross merely states that "Based on the below discussion of diagnostic configuration messages and diagnostic messages, the programming of Report Manager 404 to produce reports for the network administrator would be apparent to a person skilled in the relevant art." (col. 8, lines 4-8). Gross also merely states that "the RTRM 406 as described below, it can generate external warnings using devices such as an external alarm 418, pager device 420, or the like, as would be apparent to a person skilled in the relevant art." (col. 8, lines 17-20). The Gross disclosure does not appear to explain how or why reports would be produced (such as what criteria are used for report production), other than to label some reports as "diagnostic message reports." (col. 16, line 36).

Further, the "Diagnostic Messages" of Gross do not necessarily equate to "VoIP call usage records," and even if Gross could be considered to disclose generating reports from Diagnostic Messages, Gross does not disclose, teach, or suggest generating alarms from VoIP call usage records. First, the Diagnostic Messages of Gross may be sent *during* an IP connection, *after* the IP connection has been established (*see, e.g.*, Gross, block 1002 of FIG. 10; col. 19, lines 64-65). However, the "VoIP call usage records" according to one embodiment of the present invention are created once the notification of the end of the call is received (*see Spec.*, page 10, lines 10-11). Second, the fields of the exemplary call usage record of FIG. 3 of

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the present application do not correspond even roughly to the fields of the Diagnostic Message of TABLE 2 of Gross. Diagnostic Messages represent *raw information during calls to/from Terminal Endpoints*, whereas VoIP call usage records represent *sorted and/or processed information after calls through the VoIP network*.

For at least these reasons, Gross does not disclose, teach, or suggest "generating alarms from VoIP call usage records." Therefore, Applicant respectfully requests the Examiner to withdraw the rejection of claim 14 under 35 U.S.C. § 102(e) based on the Gross reference.

CLAIM REJECTIONS - 35 U.S.C. § 103

In the Office action, the Examiner rejected claims 1 and 2 under 35 U.S.C. §103(a) as being unpatentable over Garakani et al. (U.S. 6,781,959) (hereinafter "Garakani") in view of Jeon et al. (U.S. 5,940,480) (hereinafter "Jeon"); claims 3-8, 10 and 12 under 35 U.S.C. §103(a) as being unpatentable over Garakani and Jeon in view of Gross; claims 9 and 11 under 35 U.S.C. §103(a) as being unpatentable over Garakani, Jeon, and Gross, in view of Walter (U.S. 5,999,604) (hereinafter "Walter"); and claims 13 and 15 under 35 U.S.C. §103(a) as being unpatentable over Walter in view of Gross. Claims 1-12 have been cancelled. Claims 13 and 15 have been amended, and Applicant asserts that claims 13 and 15, as amended, overcome the combination of Walter and Gross.

Amended claim 13 provides, *inter alia*, "producing a failure rate based on disconnect cause codes of VOIP call usage records associated with VOIP call traffic handled by a particular VoIP network element for a given time interval; determining if the failure rate exceeds a defined threshold; and generating an alarm if it is determined that the failure rate exceeds the defined threshold." Amended claim 15 includes similarly-worded claim elements.

"In order to establish a *prima facie* case of obviousness," one criteria is that the "prior art reference (or references when combined) must teach or suggest all the claim limitations." *MPEP* § 2142. At least one claim limitation exists in claims 13 and 15 that is not taught, disclosed, or

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suggested by either Walter or Gross. For example, Walter does not disclose, teach, or suggest **"generating an alarm if it is determined that the failure rate exceeds the defined threshold."** Walter discloses an ASR ratio, or a ratio of answered calls to seizures (col. 5, lines 46-49), but does not disclose a failure rate based on disconnect cause codes of VoIP call usage records. Walter discloses indicating call service alarm conditions (claim 5), but does not disclose generating an alarm if it is determined that the failure rate (based on disconnect cause codes) exceeds the defined threshold. For at least these reasons, Walter does not disclose "generating an alarm if it is determined that the failure rate exceeds the defined threshold."

Gross also fails to provide at least one claim element that Walter lacks. For example, Gross also fails to disclose, teach, or suggest **"generating an alarm if it is determined that the failure rate exceeds the defined threshold."** For this claim element, the Examiner at page 12 of the Office action points to Gross (col. 1, lines 45-65; col. 5, lines 58 – col. 6 line 11; col. 7, lines 50 – col. 8 lines 8; and col. 16, lines 65 – col. 17 line 11) as supporting the statement that "Gross...discloses a system for managing diagnostic and performance information in a VoIP network which includes setting up diagnostic control messages which will provide an alert message via an alarm or paging device to a network professional/administrator." However, as described above, Gross does not disclose how or why alarms may be generated. In particular, Gross fails to disclose, teach, or suggest *any* conditions for the creation of an alarm; therefore, Gross does not disclose, teach, or suggest "generating an alarm **if it is determined that** the failure rate exceeds the defined threshold." Because claim 15 has limitations similar to claim 13, the same rationale applies.

Walter in view of Gross does not teach or suggest at least one limitation of claims 13 or 15. For at least the aforementioned reasons, claims 13 and 15 are patentable over Walter in view of Gross. Therefore, claims 13 and 15 are believed to be in condition for allowance, such being respectfully requested herein.

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NEW CLAIMS

Applicant has added new claims 16-27, and asserts that no new matter has been added thereby. New independent claim 16 is patentably distinct from any of the four cited references, either singly or in combination, including Gross, Garakani, Jeon, Walter, Garakani-Jeon, Garakani-Jeon-Gross, Garakani-Jeon-Gross-Walter, or Walter-Gross. For example, none of these references, either singly or in combination, discloses, teaches, or suggests "comparing for each of the plurality of network elements: the number of instances of failure-type disconnect cause codes with a first predetermined threshold, and the failure rate with a second predetermined threshold." Because claim 16 is believed to be in condition for allowance, and because claims 17-27 properly depend from allowable claim 16, new claims 16-27 are believed to be in condition for allowance, such being respectfully requested herein.

CONCLUSION

The Applicant respectfully submits that the rejections have been overcome by the amendment and remark, and that the remaining pending claims are now in condition for allowance. Accordingly, the Applicant respectfully requests that the rejections be withdrawn and that a Notice of Allowance be issued for claims 13-27.

INVITATION FOR A TELEPHONE INTERVIEW

The Examiner is requested to call the undersigned at (303) 607-3709 if there remains any issue with allowance of the case.

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CHARGE OUR DEPOSIT ACCOUNT

No fee is believed to be necessary for entry of this paper. In the event that any such fee is necessary for the entry of this paper, please charge to our Deposit Account No. 06-0029 any fees under 37 C.F.R. 1.16 and 1.17 which may be requested to enter this paper.

Respectfully submitted,

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Date: January 21, 2005

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